

Senate Chamber, Atlanta, Georgia
Thursday, January 12, 2006
Fourth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has adopted by the requisite constitutional majority the following Resolution of the Senate:

SR 643. By Senator Harp of the 29th:

A RESOLUTION recognizing January 24, 2006, as "LaGrange College Day" in the State of Georgia and celebrating the 175th anniversary of LaGrange College; and for other purposes.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 380. By Senators Kemp of the 46th, Hudgens of the 47th, Bulloch of the 11th, Tolleson of the 20th, Cagle of the 49th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 8 of Title 2 of the O.C.G.A., relating to agricultural commodity commissions generally, so as to make certain provisions for an agricultural commodity commission for equines; to change certain provisions relating to definitions relative to said article; to change certain provisions relating to composition, appointments, terms of office, and compensation of commodity commission members, certification of membership to the Secretary of State, advisory boards, special committees, personnel, legal representation, eligibility of federation or organization members, acceptance of donations, voting, and termination; to

change certain provisions relating to authorization for issuance of marketing orders, notice, public hearing, record, reports from handlers, compilation of lists of producers and handlers, and use of information in reports; to repeal conflicting laws; and for other purposes.

Referred to the Agriculture and Consumer Affairs Committee.

SB 406. By Senators Hudgens of the 47th, Seabaugh of the 28th, Harp of the 29th, Shafer of the 48th and Moody of the 56th:

A BILL to be entitled an Act to amend Chapter 59 of Title 33 of the Official Code of Georgia Annotated, relating to life settlements, so as to revise certain definitions; to provide additional grounds for the suspension, revocation, or refusal to renew the license of life insurance producers; to make editorial revisions; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

SB 407. By Senators Golden of the 8th, Brown of the 26th, Meyer von Bremen of the 12th, Hooks of the 14th, Stoner of the 6th and others:

A BILL to amend Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to provide for the Governor and the Department of Community Health to contract for a state-by-state survey and analysis of state health care plans; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

SB 408. By Senators Hill of the 32nd, Rogers of the 21st and Smith of the 52nd:

A BILL to be entitled an Act to amend Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, so as to provide for the preservation of evidence of certain nationals of foreign states who have not been lawfully admitted for permanent residence in the United States; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 409. By Senators Hamrick of the 30th, Smith of the 52nd and Wiles of the 37th:

A BILL to be entitled an Act to amend Article 13 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to contested elections and primaries, so as to require that the courts determine contested elections and primaries on an expedited basis; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Ethics Committee.

SB 410. By Senators Tate of the 38th, Brown of the 26th, Stoner of the 6th, Meyer von Bremen of the 12th, Jones of the 10th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to create a joint committee of the General Assembly to be known as the Joint Committee to Study the State Health Care Benefit Plan; to provide for membership; to provide for quarterly meetings; to provide for a series of public meetings across the state; to provide for automatic repeal; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

SB 411. By Senators Tate of the 38th, Brown of the 26th, Meyer von Bremen of the 12th, Stoner of the 6th, Jones of the 10th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to create a joint committee of the General Assembly to be known as the Joint Committee to Study the State Health Care Benefit Plan; to provide for membership; to provide for quarterly meetings; to provide for a series of public meetings across the state; to provide for the Governor and the Department of Community Health to contract for a state-by-state survey and analysis of state health care plans; to provide for automatic repeal; to create a State Health Benefit Plan Advisory Committee; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

- SB 412. By Senators Meyer von Bremen of the 12th, Golden of the 8th, Brown of the 26th, Hooks of the 14th, Stoner of the 6th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to create the State Health Benefit Advisory Committee; to provide for membership; to provide for quarterly meetings; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

- SB 413. By Senators Moody of the 56th, Weber of the 40th, Douglas of the 17th, Thomas of the 2nd, Fort of the 39th and others:

A BILL to be entitled an Act to amend Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the compulsory school attendance law, so as to change certain provisions relating to mandatory education for children between ages six and 16; to provide that an unemancipated minor older than the age of mandatory attendance may not withdraw from enrollment in school without the permission of his or her parent or guardian; to require parent or guardian approval; to provide for a conference with the principal; to provide for local board of education policies; to change certain provisions relating to the minimum annual attendance required; to change certain provisions relating to exemptions from compulsory attendance; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Education and Youth Committee.

- SB 414. By Senators Staton of the 18th, Chapman of the 3rd, Whitehead, Sr. of the 24th, Carter of the 13th, Grant of the 25th and others:

A BILL to be entitled an Act to amend Title 36 of the O.C.G.A., relating to local government, so as to enact the "Rural Georgia Economic Development Act of 2006"; to provide a short title; to authorize the creation of community improvement districts by certain counties in this state; to provide for the governance and operation of such districts; to provide for certain standards for the creation of a district; to create a board of supervisors for the district and provide for the selection, powers, duties, responsibilities, terms, and filling of vacancies of members of the board; to provide for a district manager and other employees and their compensation; to provide for applicability of laws

concerning open meetings and open records; to provide for related matters; to provide an effective date; to provide for a contingency; to repeal conflicting laws; and for other purposes.

Referred to the Economic Development Committee.

SB 415. By Senators Douglas of the 17th, Seabaugh of the 28th, Grant of the 25th, Schaefer of the 50th, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 20-3-485 of the Official Code of Georgia Annotated, relating to definitions relative to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, so as to provide that surviving spouses shall be eligible students; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Higher Education Committee.

SB 416. By Senators Schaefer of the 50th, Pearson of the 51st, Williams of the 19th and Johnson of the 1st:

A BILL to be entitled Act to amend Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of superior court judges for each judicial circuit, so as to create a new third superior court judgeship for the Enotah Judicial Circuit; to provide for the initial appointment, election, and term of office of such judge; to provide for the qualifications and for the compensation, salary, and expense allowance of said judge to be paid by the State of Georgia and the counties comprising the judicial circuit; to provide for jurors; to authorize the judges of said circuit to divide and allocate the work and duties thereto and provide for the duties of the chief judge; to provide for powers, duties, and responsibilities of judges of said circuit; to provide for an additional court reporter and personnel and the compensation of such reporter and personnel; to declare inherent authority; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 417. By Senators Thomas of the 2nd, Brown of the 26th, Fort of the 39th, Miles of the 43rd, Butler of the 55th and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, the "Natural Gas Competition and Deregulation Act," so as to change certain provisions relating to selection of

the regulated provider of natural gas; to revise a definition; to provide that the Public Service Commission shall select at least two but no more than three regulated providers; to revise other provisions to conform to this change; to delete obsolete language; to provide for construction; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 418. By Senators Thomas of the 2nd, Brown of the 26th, Fort of the 39th, Miles of the 43rd, Butler of the 55th and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, the "Natural Gas Competition and Deregulation Act," so as to prohibit disconnection of natural gas from residences of certain persons during the winter heating season; to revise legislative findings and intent; to revise definitions; to provide for expedited reconnection of natural gas for certain persons; to regulate the imposition of reconnect fees and deposits relating to natural gas; to provide for enforcement of the limitation on deposits relating to natural gas for residential consumers; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 419. By Senators Harp of the 29th, Hudgens of the 47th, Shafer of the 48th, Tolleson of the 20th and Bulloch of the 11th:

A BILL to be entitled an Act to amend Article 2 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to setoff of debt collection against lottery prizes, so as to provide a method to recover delinquent child support payments from certain lottery proceeds; to amend Chapter 6 of Title 19 of the Official Code of Georgia Annotated, relating to alimony and child support generally, so as to require the child support enforcement agency to present claims for delinquent child support with the Georgia Lottery Corporation for the protection of the interest of the state and families owed delinquent due child support; to change certain provisions relating to said articles; to provide for applicability and an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

- SB 420. By Senators Unterman of the 45th, Schaefer of the 50th, Johnson of the 1st, Thomas of the 2nd, Harp of the 29th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, so as to provide for the creation, authorization, procedure, revocation, and termination of a power of attorney from a parent to a grandparent for the care of a grandchild; to provide for short titles; to provide definitions; to provide for the creation of a pilot program to provide a subsidy to certain grandparents raising grandchildren under certain circumstances; to provide for an assessment and evaluation of the pilot program; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

- SB 421. By Senators Unterman of the 45th, Balfour of the 9th, Shafer of the 48th and Kemp of the 46th:

A BILL to be entitled an Act to amend Title 17 of the O.C.G.A., relating to criminal procedure, so as to provide that arresting officers in certain cases may issue a nontraffic misdemeanor citation and release the person cited on his or her recognizance; to provide for the development, form, contents, and use of a nontraffic misdemeanor citation form; to provide for accountability; to provide for the conditions for the issuance of such citation; to authorize the use of such citation for the purposes of prosecuting such offense; to provide that the use of such citation shall not bar subsequent issuance of a warrant, indictment, or accusation; to provide that a person cited shall submit to post-arrest processing as required by law; to amend Code Section 16-10-51 of the Official Code of Georgia Annotated, relating to bail jumping, to include individuals who were released on their own recognizance pursuant to the issuance of a nontraffic misdemeanor citation; to provide for other related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

- SB 422. By Senators Unterman of the 45th, Harp of the 29th, Butler of the 55th, Balfour of the 9th and Shafer of the 48th:

A BILL to be entitled an Act to amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors, so as to provide

definitions; to provide for the scope of practice; to increase the penalty for improper practice; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

SB 423. By Senators Unterman of the 45th, Mullis of the 53rd and Thomas of the 54th:

A BILL to be entitled an Act to amend Chapter 44 of Title 31 of the Official Code of Georgia Annotated, relating to renal disease facilities, so as to provide a short title; to revise a definition for purposes of conformity; to revise certain provisions relating to the adoption of rules relative to end stage renal disease facilities and personnel thereof; to revise certain provisions relating to minimum standards for curricula, instructors, and training dialysis and reuse technicians; to amend Title 43 of the Official Code of Georgia Annotated, relating to regulation of professions and businesses, so as to add a new Chapter 30A regulating patient care dialysis technicians; to provide for definitions; to provide for licensing requirements for patient care dialysis technicians; to provide for the renewal and reinstatement of licenses; to provide for powers of the Georgia Board of Nursing relating to the regulation of patient care dialysis technicians; to provide for authorized activities of patient care dialysis technicians; to provide for delegation of dialysis care by a registered professional nurse to a patient care dialysis technician; to provide for the use of titles and other indications of licensure; to provide for applications under oath; to provide for the creation, composition, and duties of the Patient Care Dialysis Technician Advisory Council; to provide for disciplinary actions; to provide for violations; to provide for actions to enjoin; to provide for administrative procedures; to revise certain provisions relating to the nonapplicability of Code Section 43-34-177 for purposes of conformity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

SB 424. By Senators Chance of the 16th, Douglas of the 17th, Moody of the 56th, Cagle of the 49th, Staton of the 18th and others:

A BILL to be entitled an Act to amend Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to compulsory attendance for students in elementary and secondary education, so as to provide that a student whose parent is in military service is granted excused absences from school to visit with his or her parent prior to

deployment or while on leave; to provide for construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Education and Youth Committee.

SR 680. By Senators Brown of the 26th, Staton of the 18th, Hooks of the 14th, Johnson of the 1st, Tolleson of the 20th and others:

A RESOLUTION urging the Georgia Department of Transportation to change the proposed routes for the I-16 to I-75 exchange in Macon, Georgia; and for other purposes.

Referred to the Transportation Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Finance Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 970 Do Pass

Respectfully submitted,
Senator Cagle of the 49th District, Chairman

Mr. President:

The Regulated Industries and Utilities Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 120 Do Pass by substitute

Respectfully submitted,
Senator Seabaugh of the 28th District, Chairman

Mr. President:

The Retirement Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 149 Do Pass

Respectfully submitted,
Senator Heath of the 31st District, Chairman

Mr. President:

The State and Local Governmental Operations Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 399 Do Pass by substitute

Respectfully submitted,
Senator Wiles of the 37th District, Chairman

Senator Hooks of the 14th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Tarver of the 22nd asked unanimous consent that Senator Powell of the 23rd be excused. The consent was granted, and Senator Powell was excused.

Senator Stoner of the 6th asked unanimous consent that Senator Thompson of the 5th be excused. The consent was granted, and Senator Thompson was excused.

The roll was called and the following Senators answered to their names:

Adelman	Hill,Jack	Shafer,D
Balfour	Hill,Judson	Smith
Brown	Hooks	Staton
Bulloch	Hudgens	Stephens
Butler	Johnson	Stoner
Cagle	Jones	Tarver
Carter	Kemp	Tate
Chance	Me V Bremen	Thomas,D
Chapman	Miles	Thomas,R
Douglas	Moody	Thompson,S
Goggans	Mullis	Tolleson
Golden	Pearson	Unterman
Grant	Reed	Weber
Hamrick	Rogers	Whitehead
Harbison	Schaefer	Wiles
Harp	Seabaugh	Williams
Heath	Seay	Zamarripa
Henson		

Not answering were Senators:

Fort
Thompson, C (Excused)

Powell (Excused)

Starr (Excused)

Senator Fort was off the floor of the Senate when the roll was called and wishes to be recorded as present.

The members pledged allegiance to the flag.

Senator Seabaugh of the 28th introduced the chaplain of the day, Dr. Gene Tyre of Newnan, Georgia, who offered scripture reading and prayer.

The following resolutions were read and adopted:

SR 676. By Senator Golden of the 8th:

A RESOLUTION commending the class of Leadership Cook 2005; and for other purposes.

Senator Golden of the 8th recognized the class of Leadership Cook 2005, Carrie Fausett, Chad Moore and Bob Hawsley along with Ms. Rhonda G. Geiger, Leadership Cook Coordinator, commended by SR 676.

SR 677. By Senator Hooks of the 14th:

A RESOLUTION congratulating Mrs. Mary Bryan Weaver Arnold on the occasion of her 100th birthday; and for other purposes.

SR 678. By Senator Goggans of the 7th:

A RESOLUTION commending Mark Sawyer on becoming an Eagle Scout; and for other purposes.

SR 679. By Senator Goggans of the 7th:

A RESOLUTION commending Andrew Johnson on becoming an Eagle Scout; and for other purposes.

SR 681. By Senators Seay of the 34th, Starr of the 44th, Fort of the 39th, Reed of the 35th and Tate of the 38th:

A RESOLUTION commending the Arnold-Fountain Professional Club; and for other purposes.

Senator Smith of the 52nd asked unanimous consent that the following bill be withdrawn from the Senate Insurance and Labor Committee and committed to the Senate Judiciary Committee:

SB 383. By Senators Smith of the 52nd, Williams of the 19th, Hamrick of the 30th, Schaefer of the 50th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to provide that the clerk of superior court shall also serve as clerk of the state court, magistrate court, and juvenile court of the county; to provide for exceptions; to change the provisions relating to bonds; to change the provisions relating to personnel; to change the provisions relating to compensation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The consent was granted, and SB 383 was committed to the Senate Judiciary Committee.

Pursuant to Senate Rule 3-1.7, Senator Rogers of the 21st asked unanimous consent that the following bill be withdrawn from the consideration of the Senate:

SB 171. By Senators Rogers of the 21st, Pearson of the 51st, Goggans of the 7th, Cagle of the 49th, Schaefer of the 50th and others:

A BILL to be entitled an Act to amend Part 2 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the board of regents governing the University System of Georgia, so as to prevent unauthorized noncitizens from enrolling in the University System of Georgia; to provide for related matters; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

The consent was granted, and SB 171 was withdrawn from consideration of the Senate.

Senator Staton of the 18th introduced the doctor of the day, Dr. Michael E. Greene.

SENATE CALENDAR
THURSDAY, JANUARY 12, 2006
FOURTH LEGISLATIVE DAY

SB 386 Apportionment of House/Senate; provide for composition of state senatorial districts 46,47,49; elections (R&R-47th)

The following legislation was read the third time and put upon its passage:

SB 386. By Senator Hudgens of the 47th:

A BILL to be entitled an Act to amend Chapter 2 of Title 28 of the Official Code of Georgia Annotated, relating to apportionment of the House of Representatives and Senate and qualifications of members, so as to provide for the composition of state senatorial districts and, in particular, Senate Districts 46, 47, and 49; to provide for the election of such Senators; to provide when such Senators so elected shall take office; to provide for the continuation of present senatorial districts until a certain time; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Johnson of the 1st moved the previous question.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	E Thompson,C
N Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	E Powell	Y Unterman
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 34, nays 18.

SB 386, having received the requisite constitutional majority, was passed.

Senator Williams of the 19th moved the Senate stand at ease until 2:00 p.m.

Senator Thompson of the 33rd moved that the Senate adjourn until 10:00 a.m. Friday, January 13, 2006.

Senator Williams of the 19th called for the yeas and nays; the call was sustained, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tarver
N Carter	N Kemp	Y Tate
N Chance	Y Me V Bremen	N Thomas,D
N Chapman	Y Miles	N Thomas,R
N Douglas	N Moody	E Thompson,C
Y Fort	N Mullis	Y Thompson,S
N Goggans	N Pearson	N Tolleson
Y Golden	E Powell	N Unterman
N Grant	Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the motion to adjourn the yeas were 16, nays 35; the motion lost, and the Senate did not adjourn.

At 12:04 p.m. the President announced that the Senate would stand in recess until 2:00 p.m.

At 2:00 p.m. the President called the Senate to order.

Senator Pearson of the 51st asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Rogers of the 21st asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

Senator Hudgens of the 47th asked unanimous consent that Senator Kemp of the 46th be excused. The consent was granted, and Senator Kemp was excused.

The following bill was taken up to consider the Conference Committee Report #3 thereto:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report #3 was as follows:

The Committee of Conference on SB 203 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 203 be adopted.

Respectfully submitted,

FOR THE SENATE:

FOR THE HOUSE
OF REPRESENTATIVES:

/s/ Senator Wiles of the 37th

/s/ Representative Willard of the 49th

/s/ Senator Meyer von Bremen of the 12th

/s/ Representative Ehrhart of the 36th

/s/ Senator Weber of the 40th

/s/ Representative Franklin of the 43rd

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 203

A BILL TO BE ENTITLED AN ACT

To amend Title 15 and Title 17 of the Official Code of Georgia Annotated, relating respectively to courts and legal defense for indigents, so as to clarify and change provisions relating to fees and collection of fees for indigent defense services; to provide that local victim assistance funds collected by the courts shall be paid directly to the county governing authority or the district attorney; to provide for certain reports; to provide that the Criminal Justice Coordinating Council shall quarterly prepare and publish a report of all courts that have not filed certain reports; to change certain provisions relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court; to change certain provisions relating to the application fees for free legal services and remittance of funds;

to clarify remittance of the \$50.00 application fee to certain entities; to change provisions relating to an additional filing fee on civil actions in the probate courts; to change provisions relating to the system of reporting and accounting relating to the Georgia Superior Court Clerks Cooperative Authority; to authorize certain inquiries and audits; to authorize the recovery of attorney's fees and costs under certain circumstances; to provide for definitions; to provide for clarity regarding which entities may be entitled to collect attorney's fees and the mechanism for such collection; to correct a cross-reference relating to circuit public defender office's contracts with local governments; to provide for provisions relating to work release programs in felony sentences; to provide for revocation of work release status; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking Code Section 15-21-132, relating to assessment and collection of local victim assistance funds, and inserting in lieu thereof the following:

"15-21-132.

(a) The sums provided for in Code Section 15-21-131 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid ~~over to the Georgia Superior Court Clerks' Cooperative Authority by the end of the month after the collection. The net proceeds shall be distributed by such authority as follows~~ monthly:

(1) If the county where the fine was imposed operates or participates in any victim assistance program certified by the Criminal Justice Coordinating Council, ~~then the moneys shall be paid over~~ to the governing authority of the county for disbursement to those victim assistance programs; or

(2) If the county where the fine was imposed does not operate or participate in any victim assistance program certified by the Criminal Justice Coordinating Council, ~~then the moneys shall be paid over~~ to the district attorney of the judicial circuit in which the county is located for the purpose of defraying the costs of victim assistance activities carried out by the district attorney's office. Such funds shall be paid over in the same manner as other county funds paid for operations of the district attorney's office and shall be in addition to rather than in lieu of any other such funds.

All such funds shall be paid to the recipients by the last day of the month in which the funds are received; provided, however, that the governing authority of the county shall be authorized to hold as reserve funds an amount not to exceed 5 percent of the funds received by the governing authority in the preceding calendar year.

(b) ~~The Georgia Superior Court Clerks' Cooperative Authority~~ The court officer charged with the duty of collecting moneys arising from fines as provided for in Code Section 15-21-131 shall receive and distribute the funds collected ~~pursuant to this Code section~~ to the county governing ~~authorities~~ authority or district attorney, as appropriate,

and shall submit a monthly report of the collection and distribution of such funds to the Georgia Superior Court Clerks' Cooperative Authority, and the Georgia Superior Court Clerks' Cooperative Authority shall submit a financial report to the Criminal Justice Coordinating Council each month stating the amount collected and the amount disbursed ~~to each county governing authority~~ no later than the last day of the month following the month in which the funds were collected.

(c) The county governing authority receiving funds shall submit a financial report to the Criminal Justice Coordinating Council semiannually stating the recipients that directly received funds during such reporting period no later than the last day of the month following the reporting period in which the funds were collected in order to allow coordination of local, state, and federal funding sources for similar services. The Criminal Justice Coordinating Council shall report annually to the General Assembly the county governing authorities that failed to submit semiannual reports during the previous calendar year.

(d) All recipients of funds pursuant to this Code section, except county governing authorities, shall submit an annual report to the Criminal Justice Coordinating Council. Such report shall include, but not be limited to, the total amount of funds received ~~from each county governing authority pursuant to this Code section,~~ the purposes for which the funds were expended, and the total number of victims served in each county for which the funds were received. A copy of each recipient's annual report shall also be submitted to each county governing authority from which funds were received pursuant to this Code section.

(e) The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

(f) The Criminal Justice Coordinating Council shall promulgate rules governing the revocation of certification of victim assistance programs. Such rules shall provide for the decertification of programs previously certified by the Criminal Justice Coordinating Council that are no longer in compliance with the rules promulgated by the Criminal Justice Coordinating Council pursuant to this Code section.

(g) Moneys arising from fines imposed pursuant to Code Section 15-21-131 shall not be paid to any victim assistance program that has not been certified by the Criminal Justice Coordinating Council or to any program that has been decertified by such council.

(h) Each calendar quarter, the Criminal Justice Coordinating Council shall prepare and publish, by document and posting on its website, a report that shall list each court which has not filed the reports required by subsection (b) of this Code section."

SECTION 2.

Said title is further amended by striking Code Section 15-21A-4, relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court, and inserting in lieu thereof the following:

"15-21A-4.

- (a)(1) Each clerk of any court or any other officer or agent of any court receiving any funds ~~subject to~~ required to be remitted to the authority under this chapter on or after July 1, 2004, shall remit all such funds to the authority by the end of the month following the month in which such funds are received. Each clerk of any court or other officer or agent of any court receiving any funds required to be reported to the authority by this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7 shall report such funds to the authority no later than 60 days after the last day of the month in which such funds are received.
- (2) The chief judge of superior court for each county shall have the authority to require compliance with ~~paragraph (1) of this subsection by~~ this chapter and with the rules and regulations of the authority promulgated by the authority in accordance with Code Section 15-21A-7 by any clerk, officer, or agent of any court within the county. If any court is more than 60 days delinquent or is habitually delinquent in remitting any funds or reports required under this Code section or Code Section 15-21A-6, chapter or by the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7, the authority shall notify the chief judge of superior court of the county in which the court is located.
- (b) The authority shall prescribe uniform procedures and forms for the reporting and remittance of all funds subject to ~~Code Section 15-21A-3~~ this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7; and all clerks or other officers or agents remitting ~~or reporting~~ such funds shall use the prescribed procedures and forms in reporting and remitting funds to the authority.
- (c) The authority shall prescribe uniform rules, procedures, and forms relative to the partial or installment collection and remittance of funds subject to ~~Code Section 15-21A-3~~ reporting or remittance to the authority under this chapter or rules and regulations promulgated by the authority in accordance with Code Section 15-21A-7. Any funds held by any court or unit of local government on July 1, 2004, consisting of previously collected partial or installment payments shall be subject to the rules, procedures, and forms so prescribed and shall be remitted to the authority to the extent provided for in such rules and procedures. Funds collected that are partial or installment payments of costs, fees, and surcharges that are required by this chapter to be remitted to the authority shall be remitted to the authority by the end of the month following the month in which they were collected; provided, however, that the authority is authorized to provide by rules and regulations for a longer period of time for remitting such funds not to exceed six months.
- (d) The authority shall remit all funds collected to the designated receiving entities or general fund of the state treasury within 60 days of receiving such funds."

SECTION 3.

Said title is further amended by striking in its entirety Code Section 15-21A-6, relating to additional filing fees, application fee for legal assistance, and remittance of funds, and inserting in lieu thereof the following:

"15-21A-6.

(a) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in the superior, state, ~~probate~~, recorder's, mayor's, and magistrate courts except that municipalities, counties, and political subdivisions shall be exempt from such fee. Without limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari, ~~applications by personal representatives for leave to sell or reinvest~~, trade name registrations, applications for change of name, and all other proceedings of a civil nature. Any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.

(b)(1) As used in this subsection, the term 'civil action' means:

(A) With regard to decedents' estates, the following proceedings: petition for letters of administration; petition to probate a will in solemn form; petition for an order declaring no administration necessary; petition to probate a will in solemn form and for letters of administration with will annexed; and petition for year's support;

(B) With regard to a minor guardianship matter as set forth in paragraph (1) of subsection (f) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked;

(C) With regard to an adult guardianship matter as set forth in paragraph (1) of subsection (g) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked; and

(D) An application for writ of habeas corpus.

(2) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional fee of \$15.00 in each civil action filed in the probate court. For the purposes of the imposition of the civil filing fee required by this subsection, the probate court shall collect the civil filing fee on each proceeding listed in subparagraph (A) of paragraph (1) of this subsection involving a decedent but once only in a guardianship matter involving the same ward or an application for writ of habeas corpus involving the same applicant.

(c) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of \$50.00 for the application for, receipt of, or application for and receipt of such services. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged.

~~(e)~~(d) Each clerk of court, each indigent defense program, or any other officer or agent of any court receiving any funds subject to this Code section shall collect the additional fees provided in this Code section and shall pay such moneys over to the authority by

the last day of the month after the month of collection, to be deposited by the authority into the general fund of the state treasury.

~~(d)~~(e) It is the intent of the General Assembly that all funds derived under this Code section shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

~~(e)~~(f) A public entity other than an entity providing legal defense services under Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a \$50.00 application fee unless waived by the court for inability to pay or hardship. Any such fee shall be retained by the entity providing the services or used as otherwise provided by law and shall not be subject to payment to the authority or deposit into the state treasury.

(g) For the purposes of this Code section, a county or municipality that provides indigent defense services or that contracts with a circuit public defender office for the provision of indigent defense services in courts other than the superior and juvenile court is deemed to be the entity providing the legal defense services and is entitled to impose and collect the application fee authorized by subsection (f) of this Code section."

SECTION 4.

Said title is further amended by striking subsection (b) of Code Section 15-21A-7, relating to the definition of court and the system for reporting and accounting, and inserting in lieu thereof the following:

"(b) The authority shall ~~develop~~ promulgate rules and regulations for the administration of this chapter. Such rules and regulations shall include but not be limited to a reporting and accounting system for all court fines and fees and all surcharges on and deductions from any court fines and fees that are authorized to be collected or disbursed in any court. The authority shall develop a system that employs controls necessary to determine the accuracy of the fine and fee collections and disbursement by each clerk of court or other officer or agent of any court receiving any fines and fees. No later than 60 days after the end of the last day of each month, each such clerk of court and, if there is no clerk of court, any court officer, judge, or other agent of the court shall report to the authority on a reporting system prescribed by the authority. Any entity doing business with such clerk or agents any court and all agencies and instrumentalities of the state shall ~~cooperate in providing on a timely basis~~ provide any information or data requested by the authority in a format prescribed by the authority by rule or regulation. The authority is authorized to make inquiries to clerks of court, court officers, judges, or agents of any court and agencies or instrumentalities of the state as well as any other parties for the purpose of determining the accuracy of any fines and fees collected or disbursed by a court and is authorized where it determines appropriate to conduct audits of any parties to assist in ensuring the accuracy of the system developed by the authority."

SECTION 5.

Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by striking subsection (d) of Code Section 17-12-23, relating to contracts with local governments, and inserting in lieu thereof the following:

"(d) A city, or county, ~~or consolidated government~~ may contract with the circuit public defender office for the provision of criminal defense for indigent persons accused of violating city, or county, ~~or consolidated government~~ ordinances or state laws. If a city, or county, ~~or consolidated government~~ does not contract with the circuit public defender office, the city, or county, ~~or consolidated government~~ shall be subject to all applicable standards adopted by the council for representation of indigent persons in this state."

SECTION 6.

Said title is further amended by inserting a new Article 2A of Chapter 12 to read as follows:

"ARTICLE 2A

17-12-50.

As used in this article, the term:

- (1) 'Paid in part' means payment by a county or municipality for a part of the cost of the provision of indigent defense services pursuant to a contract with a circuit public defender office as set forth in subsection (d) of Code Section 17-12-23. The term does not include payment by a county or municipality for office space and other supplies as set forth in Code Section 17-12-34.
- (2) 'Public defender' means an attorney employed by a circuit public defender office, an attorney who is a conflict defender, or any other attorney who is paid from public funds to represent an indigent person in a criminal case.

17-12-51.

- (a) When a defendant who is represented by a public defender, who is paid in part or in whole by a county, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to the county.
- (b) When a defendant who is represented by a public defender, who is paid in part or in whole by a municipality, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to the municipality.
- (c) If a defendant who is represented by a public defender, who is paid for entirely by

the state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other costs of the defense if the payment does not impose a financial hardship upon defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to Georgia Public Defender Standards Council for payment to the general fund of the state treasury. It is the intent of the General Assembly that all funds collected under this subsection shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

(d) In determining whether or not a payment imposed under this Code section imposes a financial hardship upon a defendant or defendant's dependent or dependents and in determining the amount of the payment to impose, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense. If requested by the defendant, the court shall hold a hearing to determine the amount to be paid.

(e) This Code section shall not apply to a disposition involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings.

17-12-52.

(a) A county or municipality may recover payment or reimbursement from a person who has received legal assistance from a public defender paid in part or in whole by the county or municipality:

(1) If the person was not eligible to receive such legal assistance; or

(2) If the person has been ordered to pay for the legal representation and other expenses of the defense pursuant to Code Section 17-12-51 and has not paid for the legal services.

(b) An action shall be brought within four years after the date on which the legal services were received.

(c) In determining the amount of the payment imposed under this Code section, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense.

(d) This Code section shall not apply to proceedings involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings."

SECTION 7.

Said title is further amended in Code Section 17-10-1, relating to fixing of sentence in criminal cases, by adding at its end a new subsection (g) to read as follows:

"(g)(1)(A) In sentencing a defendant convicted of a felony to probated confinement, the sentencing judge may make the defendant's participation in a work release program operated by a county a condition of probation, provided that such program

is available and the administrator of such program accepts the inmate.

(B) Any defendant accepted into a county work release program shall thereby be transferred into the legal custody of the administrator of said program; likewise, any defendant not accepted shall remain in the legal custody of the Department of Corrections.

(2) Work release status granted by the court may be revoked for cause by the sentencing court in its discretion or may be revoked by the state or local authority operating the work release program for any reason for which work release status would otherwise be revoked.

(3) The provisions of this subsection shall not limit the authority of the commissioner to authorize work release status pursuant to Code Section 42-5-59 or apply to or affect the authority to authorize work release of county prisoners, which shall be as provided for in Code Sections 42-1-4 and 42-1-9 or as otherwise provided by law.

(4) This subsection shall not apply with respect to any violent felony or any offense for which the work release status is specifically prohibited by law, including but not limited to serious violent felonies as specified in Code Section 17-10-6.1."

SECTION 8.

This Act shall become effective on July 1, 2006.

SECTION 9.

All laws and parts of laws in conflict with this Act are repealed.

Senator Wiles of the 37th moved that the Senate adopt the Conference Committee Report #3 on SB 203.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	E Kemp	Tate
Y Chance	Y Me V Bremen	Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	E Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

Y Harbison
Harp
Y Heath
Y Henson

Y Schaefer
Y Seabaugh
Y Seay
Shafer,D

Y Wiles
Y Williams
Y Zamarripa

On the motion, the yeas were 44, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report #3 on SB 203.

Senator Williams of the 19th moved that the Senate adjourn until 9:00 a.m. Friday, January 13, 2006.

The motion prevailed, and the President announced the Senate adjourned at 2:22 p.m.